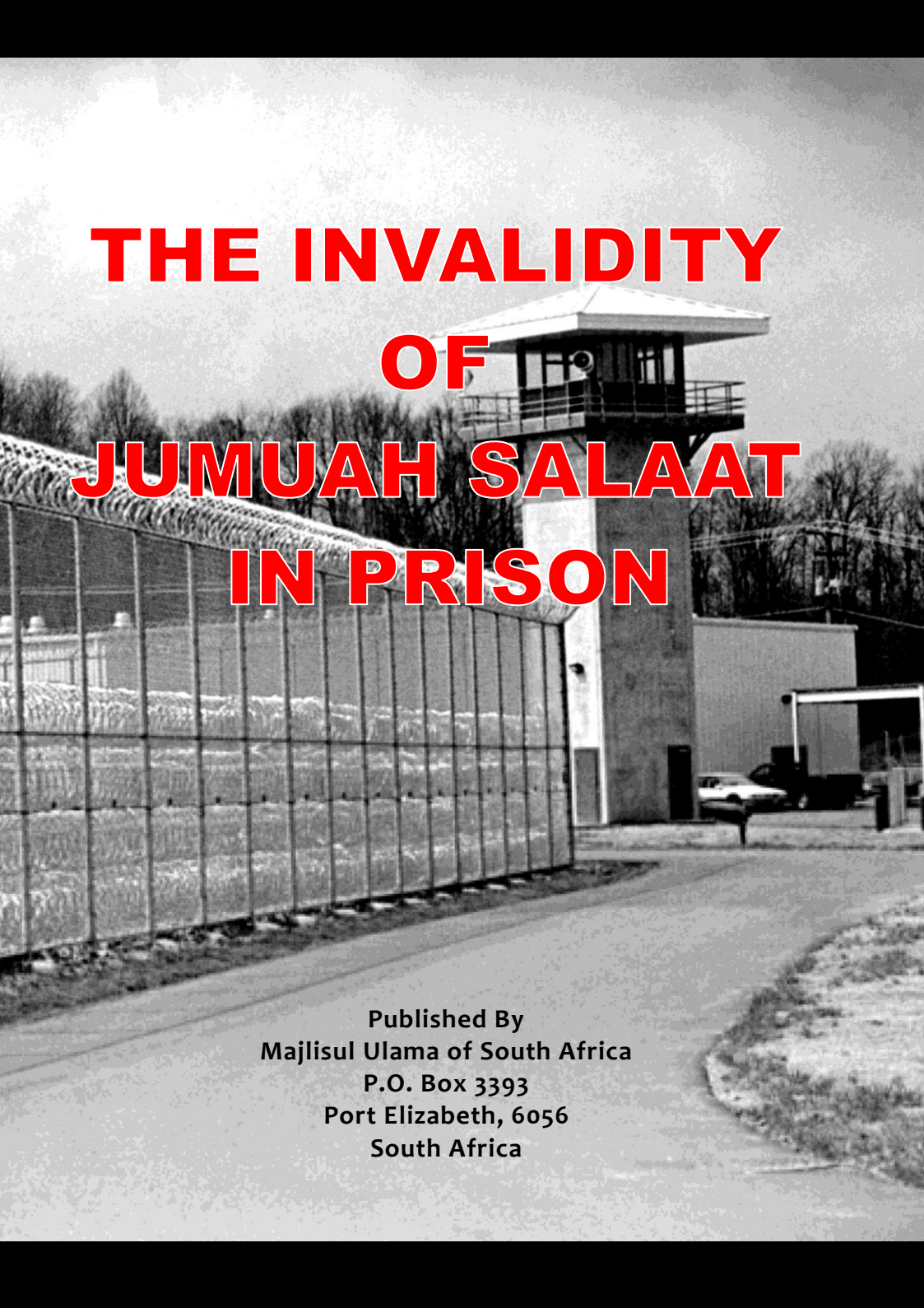




THE INVALIDITY OF JUMUAH SALAAT IN PRISON

Published By
Majlisul Ulama of South Africa
P.O. Box 3393
Port Elizabeth, 6056
South Africa

The invalidity of Jummah Salaat in prison

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INTRODUCTION

Like every other Salaat and every other act of ibaadat, Jumuah Salaat too has several shuroot (conditions) for its discharge and validity. Ibaadat is not valid without observance of the conditions prescribed by the Shariah.

In some quarters ignorant persons who, having no understanding of the Shariah, are claiming that Jumuah Salaat is obligatory on all and sundry solely by virtue of the Qur`aanic command:

“O People of Imaan! When you are called (by the Athaan) on the Day of Jumuah, then hasten to the Thikr of Allah (i.e. the Jumuah Khutbah and Salaat)...”

This is their sole basis for clamouring that Jumuah Salaat is compulsory in prisons notwithstanding the absence of the shuroot prescribed by the Shariah for its validity. If this legless and absurd argument has to be entertained and accepted, it will follow that the performance of the daily five Salaat and the payment of Zakaat, are compulsory on all and sundry regardless of their conditions, simply because the Qur`aan Majeed commands repeatedly:

“O People of Imaan! Establish Salaat and pay Zakaat....”

Every person who does not opt for deliberate blindness and intransigence will understand that an act of ibaadat devolves on a person only if the conditions for its validity are found and met.

In this small tract, we have explained the Shariah’s ruling which prohibits Jumuah Salaat in a prison and which renders it baatil (null and void).

People should understand that ibaadat is not for self-satisfaction and for gaining aggrandizement or for show. The purpose of ibaadat is to gain Allah’s Pleasure. Such Pleasure is obtainable only if the ibaadat is validly discharged and based on a sincere niyyat (intention). In a place where Jumuah is not valid, it will be sinful to perform a mock ‘Jumuah’ Salaat. Such performance will

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not absolve the errant ones from the obligation of Zuhr Salaat which they had abandoned for attaining fulfilment of their nafsaani desire to perform Jumuah in a place where Jumuah is not valid. Those who have become embroiled in this kind of nafsaani politics should abandon their intransigence and offer Qadha of the Zuhr Salaat which they have abandoned in favour of their mock Jumuah Salaat.

Only those who desire guidance and rectitude will acquire it. May Allah Ta`ala give us all the taufeeq to understand and accept the Haqq.

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JUMUAH SALAAT ACCORDING TO THE FOUR MATH-HABS

JUMUAH SALAAT *(HANAFI MATH-HAB)*

RAKA'TS

Jumuah Salaat consists of 14 raka'ts as follows:

4 raka'ts Sunnatul Muakkadah
2 raka'ts Fardh
4 raka'ts Sunnatul Muakkadah
2 raka'ts Sunnatul Muakkadah
2 raka'ts Nafil

KHUTBAH

After the 4 Sunnatul Muakkadah raka'ts, the Imaam has to recite two Khutbahs from the Mimbar in the standing position. The Imaam will sit on the Mimbar for a short pause after completing the first Khutbah.

The Khutbah has to be compulsorily recited before the Fardh Salaat. If it is recited after the Fardh Salaat, it (the Jumuah Salaat) will not be valid.

THE OBLIGATION (WUJOOB) OF JUMUAH

Jumuah is Waajib on the following persons:

1. **MUQEEM** (resident of a place) -- Muqem means person who is a permanent resident or a musaafir (traveller) who has made an intention of staying 15 days or more at the place where Jumuah is being performed. Thus, Jumuah is not incumbent on a Musaafir.
2. **SAHEEH** (Healthy person) – Jumuah is not Waajib on such ailing and aged persons who are unable to go to the Musjid.
3. **FREE MEN** – Jumuah is not compulsory on slaves.
4. **MALES** -- Jumuah is not compulsory on females.

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EXEMPTION

Exemption from Jumuah, (i.e. Jumuah will not be Waajib) will apply in the following cases:

1. Excessive rain, wind/storms, etc.
2. Caring for a gravely ill person who requires constant attention.
3. Fear of enemies or other danger.
4. Minors – Jumuah is not compulsory on those who have not attained puberty.

If any of these persons on whom Jumuah is not obligatory, attends Jumuah, their Salaat will be valid.

CONDITIONS FOR THE VALIDITY OF JUMUAH

The conditions for the validity of Jumuah are:

1. CITY -- The place where Jumuah is performed should be a city or town. Jumuah is not valid in villages or in the forest. A village in this context is a small settlement in which all the daily requirements of the community are not available. It also lacks important facilities such as a court, police station, etc., which bestow the character of a city or town to a place.
2. ZUHR TIME – It must be the time of Zuhr. Jumuah is not valid before or after Zuhr time.
3. KHUTBAH – Recitation of the Khutbah facing the jamaat (congregation).
4. JAMAAT (Congregation) – The presence of three Muqtadis in addition to the Imaam is essential. The three Muqtadis should be present from the beginning of the Khutbah until at least the Sajdah of the first raka't. It is also essential that the three Muqtadis be adult males.
5. ITHNUL AAM (General Consent) – Jumuah Salaat should be performed in a place where all have access. If Jumuah is performed

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in such a venue which is not open to the general Muslim public, then it (the Jumuah) will not be valid. If the Musjid doors are closed, thereby preventing some Muslims from entering, then the Jumuah Salaat will not be valid. Jumuah will also not be valid in a prison on account of the lack of the condition of Ithnul Aam.

If Jumuah is held at a university where all Muslims do not have the permission for attending the Jumuah, then it (Jumuah) will not be valid.

THE KHUTBAH

1. After the Imaam has seated himself on the Mimbar, the Muath-thin will stand directly in line with the Imaam (i.e. between the Mimbar) and recite the Athaan. Although the Muath-thin preferably stands in the first saff when reciting this Athaan, it is permissible to stand in any saff but he should ensure that he is in line with the Mimbar.
2. The Imaam should stand while reciting both Khutbahs.
3. The sitting pause between the two Khutbahs has to be the duration of three ‘Subhaanallaah’, i.e. as long as it will take to say ‘Subhaanallaah’ thrice. The pause may even be a bit longer.
4. Before commencing the Khutbah, the Imaam should recite silently Ta-awwuth (i.e. A-oothu billaah...)
5. Both Khutbahs should be in Arabic.
6. When the Imaam rises with the intention of proceeding to the Mimbar, then everyone present must cease all acts of Ibaadat. It is Waajib to listen to the Khutbah. It is not permissible to engage in any act, be it thikr, while the Imaam is reciting the Khutbah.
7. If the Khutbah commences while one is performing the 4 raka’ts Sunnatul Muakkadah, these should be completed.
8. When the Imaam mentions the name of our Nabi (sallallahu alayhi wasallam) during the Khutbah, the audience should ‘recite’ Durood

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in their hearts.

9. There should be no delay in commencing the Fardh Salaat after the termination of the Khutbah. If indulgence in a worldly act causes a considerable delay, then the Khutbah should be repeated. A delay caused by a Deeni act such as Wudhu, will not necessitate the repeat of the Khutbah.

JUMUAH SALAAT (SHAAFI MATH-HAB)

RAKA'TS

Jumuah Salaat consists of 10 raka'ts as follows:

- 4 raka'ts Sunnatul Muakkadah
- 2 raka'ts Fardh
- 2 raka'ts Sunnatul Muakkadah
- 2 raka'ts Nafl.

THE OBLIGATION (WUJOOB) OF JUMUAH

Jumuah is compulsory on the following persons:

1. MUQEEM -- (resident of a place). If a person is not a resident of the place where Jumuah is being performed then Jumuah will not be obligatory on him. Thus Jumuah is not incumbent on a Musaafir. If the Musaafir makes an intention of staying at least four days in the place where Jumuah is performed, then he will be regarded as a Muqeem and Jumuah will be incumbent on him.
2. SAHEEH (Healthy person) – Jumuah is not obligatory on the ailing who are unable to attend.
3. FREE MEN -- Jumuah is compulsory on only free men, not on slaves.
4. MALES – Jumuah is compulsory on only males, not on females.

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EXEMPTION

Exemption from the obligation of Jumuah applies in the following cases:

1. Excessive rain, wind/storms, etc.
2. Any valid situation e.g. fear, danger, caring for a sick person requiring constant attention, etc.
3. Jumuah is not compulsory on minors.

If any exempted person attends Jumuah, his Jumuah will be valid.

CONDITIONS FOR THE VALIDITY OF JUMUAH

The following are the conditions for the validity of Jumuah:

1. DAARUL IQAAMAT – The place where Jumuah is being performed should be such a city, town, village, etc. in which those who will be performing Jumuah are residents. The place should be their permanent place of residence. Thus, Jumuah will not be obligatory on nomads who have temporarily camped in the desert even if they are numerous in number.
2. ZUHR TIME — It must be the time of Zuhr. Jumuah is not valid before or after Zuhr time.
3. KHUTBAH — Recitation of the Khutbah facing the Jamaat.
4. JAMAAT (Congregation) — The presence of at least 40 males on whom Jumuah is compulsory. The number 40 includes the Imaam. If the Jamaat consists, for example, of 39 residents and one Musaaafir, the Jumuah will not be valid. It is essential that the 40 be present from the beginning of the Khutbah to the end of the Fardh Salaat.

THE KHUTBAH

1. The Imaam should stand while reciting both Khutbahs.
2. There should be a sitting pause between the two Khutbahs for the

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duration of three Subhaanallaah. It is best to sit for the duration of Surah Ikhlâs which the Imaam should recite silently.

3. Each Khutbah has five Arkaan (fundamentals) as follows:
 - a) Hamd (the recitation of Praise) in the form of Al-hamdulillah.
 - b) Recitation of Durood.
 - c) Commanding Taqwa.
 - d) Recitation of a Qur'aanic verse — at least one Aayat which conveys an understandable meaning.
 - e) Dua for all the Mu'mineen.
4. Both Khutbahs should be in Arabic.
5. When standing on the Mimbar, the Imaam should firstly greet (make Salaam) to the audience.
6. The audience should compulsorily listen to the Khutbah with attention.
7. There should be no delay in commencing the Fardh Salaat immediately after the ending of the Khutbah.
8. The Khutbah should compulsorily be recited before the Salaat.

JUMUAH SALAAT (MAALIKI MATH-HAB)

RAKA'TS

Jumuah Salaat consists of 8 raka'ts as follows:

- 4 raka'ts Sunnatul Muakkadah
- 2 raka'ts Fardh
- 2 raka'ts Sunnatul Muakkadah

THE OBLIGATION (WUJOOB) OF JUMUAH

Jumuah is compulsory on the following persons:

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1. MUQEEM (Resident of the place) — A Musaafir (traveller) who makes an intention of staying at least four days at a place, will also be regarded as a Muqem. However, although Jumuaah is obligatory on the Musaafir who is considered a Muqem on account of his 4 day intention, the Jumuaah will not be valid if the minimum number of 12 musallis comprises of this type of Muqem.
2. SAHEEH — Jumuaah is not obligatory on a sick person who is unable to attend the Jaami' Musjid. Health is, therefore, a condition for the obligation of Jumuaah.
3. FREE MEN — Jumuaah is obligatory on free men, not on slaves.
4. MALES — Jumuaah is compulsory on only males.

EXEMPTION FROM JUMUAH

Jumuaah is not incumbent in the following cases:

1. Bad weather conditions, e.g. excessive rain, snow storm. etc.
2. Fear or danger whether pertaining to person or property.
3. Illness.
4. Any other valid reason, e.g. caring for a sick person who requires constant attention; imprisonment.
5. Jumuaah is not compulsory on minors.

If any exempted person attends Jumuaah, his Jumuaah will be valid.

CONDITIONS FOR THE VALIDITY OF JUMUAH

1. ISTEETAAN — Permanent residency. The people should be permanent residents of the city/town/village.
2. TIME — Jumuaah time commences from the inception of Zuhr and lasts until sunset.
3. JAMAAT (Congregation) — The presence of at least twelve adult, resident males besides the Imaam.
4. THE IMAAM — The Imaam should be a Muqem or such a Musaafir who has made the intention of staying at least four days. It is also essential and a condition for the validity of the Jumuaah that the Imaam who leads the Salaat, be the one who will also recite the Khutbah.
5. KHUTBAH — Two Khutbahs are essential.

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6. JAAMI MUSJID — Jumua Salaat is valid only in the Jaami' Masjid. It is not valid in homes, open fields, prisons, university campuses, etc. The Jaami' Masjid must be a properly constructed structure keeping in line with the character of the place. If the houses/buildings of the place are solid structures of brick, then it is essential that the Jaami' Masjid be also a solid structure of brick. If the Masjid is made of timber or galvanized sheeting for example, in a place where the buildings are elaborate and solid, then the Jumua in such a Masjid will not be valid.

THE KHUTBAH

1. The Jumua Khutbah consists of two Khutbahs.
2. The Khutbah has only one RUKN (Fundamental), viz. Tahzeer (Warnings/admonition) and Tabsheer (Glad-Tidings).
3. The pause between the two Khutbahs when the Imaam sits on a Mimbar should be the duration of Surah Ikhlaas.
4. It is obligatory on the audience to listen to the Khutbah in silence.
5. A condition for the validity of the Khutbah is that it should be in the Arabic language even if the audience is non-Arab, not understanding Arabic. If none among them is able to recite the Khutbah in Arabic then Jumua falls away from them. i.e. the Jumua obligation is waived.
6. There should be no delay in commencing the Salaat after ending the Khutbah.
7. The Khutbah must be recited before the Jumua Salaat.

JUMUAH SALAAT (HAMBALI MATH-HAB)

RAKA'TS

Jumua Salaat consists of 12 raka'ts as follows:

4 raka'ts Sunnatul Ghair Muakkadah
2 raka'ts Fardh
2 or 4 or 6 raka'ts Sunnatul Muakkadah

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THE OBLIGATION (WUJOOB) OF JUMUAH

Jumuah is compulsory on the following persons:

1. MUQEEM (Resident) — Jumuah is compulsory on only a Muqeeem or such a Musaafir who has made an intention of staying more than four days.
2. SAHEEH — Jumuah is compulsory on only a healthy person. Jumuah is not compulsory on such an ailing person who is unable to attend the Jumuah.
3. FREE MEN — Jumuah is obligatory on only free persons, not on slaves.
4. MALES — Jumuah is obligatory on only males, not females.

EXEMPTION FROM JUMUAH'

Jumuah is not compulsory in the following cases:

1. Extreme weather conditions, e.g. excessive rain, cold, wind, storms, etc.
2. Sickness which causes harm/pain/deterioration if the person has to go to Jumuah.
3. Danger or any valid reason which prevents one from attending Jumuah.
4. Jumuah is not compulsory on minors.

If exempted persons attend Jumuah, it (Jumuah) will become obligatory on them.

CONDITIONS FOR THE VALIDITY OF JUMUAH

The following are the conditions for the validity of Jumuah:

1. TIME — It must be the valid time which commences from Irtifaa-ush Shams and ends with the termination of Zuhr time. (Irtifaa-ush Shams or when the sun has risen a spear's length above the horizon. This is the time when Ishraaq Salaat can be performed. This time is about 15 minutes after sunrise).
2. The place where Jumuah is performed should be a city/town/village where at least 40 adult Muslim males are permanent residents.

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3. The presence of at least 40 males who are residents. This minimum of 40 must consist of permanent residents. A Musaafir who has made the intention of staying more than 4 days will not qualify as a member of the 40 residents necessary for the validity of Jumuah. Thus, if the congregation consists of 39 permanent residents and one Musaafir who has intended a stay of more than four days, then inspite of Jumuah being Waajib on this Musaafir; the Jumuah will not be valid.

(Jumuah being Waajib – compulsory – on such a Musaafir will mean that if he happens to be in such a place where there are at least 40 permanent adult Muslim male residents.) The number 40 cannot be made up with such Musaafirs who became Muqeem by the intention of staying more than 4 days).

4. KHUTBAH — The Jumuah Khutbah consists of two Khutbahs.

THE KHUTBAH

1. The Jumuah Khutbahs validity depends on the following acts:
 - a) Hamd (Praise) of Allah Ta'ala.
 - b) Salaat (Durood) on Rasulullah (sallallahu alayhi wasallam).
 - c) Recitation of at least one Qur'aanic Aayat.
 - d) Commanding Taqwa (Fear of Allah).
 - e) The presence of 40 adult Muslim males who are residents of the place.
2. Among the Sunnat factors of the Khutbah are:
 - a) Delivery of the Khutbah from the Mimbar.
 - b) Making Salaam to the Jamaat (i.e. greeting them) when facing them.
 - c) Sitting on the Mimbar until completion of the Athaan.
 - d) Sitting between the two Khutbahs for the duration of Surah Ikhlaas.
 - e) The Khateeb should face the audience while reciting the Khutbah.
 - f) The Khateeb should stand and recite the Khutbah.
 - g) The first Khutbah should be longer than the second.
 - h) Dua for the Muslimeen.

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3. The Khutbah will not be valid in a language other than Arabic if the Khateeb is able to recite Arabic.
4. There should be no delay in starting the Jum'ah Salaat immediately after the Khutbah ends.
5. The Khutbah should compulsorily be recited before the Salaat.

THE INVALIDITY OF JUM'AH SALAAT IN PRISON ACCORDING TO THE FOUR MATH-HABS

Jum'ah Salaat is not valid in a prison according to all four Math-habs.

The validity of Jum'ah Salaat is dependant on a variety of conditions (Shuroot). Since the condition of Ithnul Aam (General Consent) is lacking in prison, Jum'ah Salaat will not be valid according to the Hanafi Math-hab.

In prison the following two conditions are lacking according to the Shaafi Math-hab:

1. Daarul Iqaamat.
2. Forty resident males to be present in the Jamaat.

Thus, according to the Shaafi Math-hab, Jum'ah Salaat is not valid in prison.

In terms of the Maaliki Math-hab the following essential conditions for the validity of Jum'ah Salaat are lacking in a prison:

1. Isteetaan (Permanent residency).
2. Jaami' Musjid.

Thus, according to the Maaliki Math-hab, Jum'ah Salaat is not valid in prison.

According to the Hambali Math-hab, Jum'ah Salaat in a prison is not valid

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because the condition of forty adult males who are permanent residents, is lacking. Prison is not the place of permanent residency.

Some argue that Jumuaah in prison is valid because the prison authorities give their consent. This argument is utterly baseless. It is absolutely devoid of Shar'i substance. The validity of Jumuaah does not require the consent of the kuffaar prison authorities. The requisites of its validity are the Shuroot prescribed by the Shariah.

The restricted consent of the prison authorities (i.e. their permitting the prisoners to perform Jumuaah Salaat in prison) is NOT the Ithnul Aam stated in the Hanafi Math-hab. The Ithnul Aam prescribed by the Hanafi Math-hab refers to the General Consent extended to the Muslim public at large – that those outside the prison enjoy the unfettered freedom to enter the place where Jumuaah Salaat is being performed.

The Fuqahaa have ruled in the very inceptional stage of Islam that Jumuaah Salaat is not valid in even a Muslim prison in Daarul Islam in view of the lack of the condition of Ithnul Aam.

JUMUAH IN PRISON- THE SHARIAH'S RULING

The following are the rulings of the Shariah stated in the authentic Books of Fiqh.

The term 'Makrooh' in the context of this article means Makrooh Tahrimi which refers to a reprehensible act which is not permissible. Its commission is sinful. It is a punishable offence.

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- (1) *"It is Makrooh for the sick to perform Zuhr with Jamaat on the Day of Jumuah, and similarly is it for the inmates of the prison."*
(Qudoori, Kanzud Daqaaiq, Sharhul Wiqaayah, Sagheeri, Hidaayah, etc.)
- (2) *"Verily, performance of Zuhr with Jamaat is Makrooh on Fridays without restriction (i.e. for all those who are unable to attend a valid Jumuah Salaat) Verily, they should perform Zuhr in the city without Athaan, without Iqaamah and without Jamaat. Walwaalji stated that they should not perform (Zuhr) on Fridays in a city with Jamaat; neither should they give Athaan nor Iqaamah in prison and elsewhere (where Jumuah is not valid). It is preferable for the sick person to delay (Zuhr) Salaat until the Imaam has completed Jumuah Salaat. If he does not delay it, it is Makrooh. This is the authentic view."*
(Bahrur Raa-iq)
- (3) *"It is Makrooh for the sick and the prisoners to perform Zuhr with Jamaat in the city (on Fridays). This is narrated from Hadhrat Ali (radhiyallahu anhu)"*
(Tabyeenul Haqaa-iq)
- (4) *"It is Makrooh for the sick and the prisoners to perform Zuhr with Jamaat in the city on Friday whether it be before the Jumuah has completed or after it"*
(Ghunyatul Mutamalli fi Sharhi Munyatil Musalli)
- (5) *"It is Makrooh Tahreemi for the sick, the prisoners and the traveller to perform Zuhr with Jamaat in a city before and after Jumuah..."*
(Ad-Durrul Mukhtaar)
- (6) *"It is said in Al-Waaljiyyah: On Friday Jamaat of Zuhr Salaat should not be performed in prison in a city nor should Athaan be given nor Iqaamah."*
(Raddul Mukhtaar)
- (7) *"It is preferred for the sick, the musaafir and the inmates of the*

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prison to delay Zuhr until the Imaam (in the city) has completed the Jumuah Salaat. If they do not delay, then it will be Makrooh in the authentic view. So does it appear in Al-Wajeez of Al-Kardawi.”
(Alamghiri)

- (8) *“In the city Zuhr with Jamaat is Makrooh for the sick and others such as prisoners and travellers, whether before the completion of the Imaam (in the city) or after it. And, Zuhr Jamaat of city inhabitants is Makrooh (on Fridays) if they do not perform Jumuah because of some obstacle.”*
(Alamghiri)

- (9) *“Salaatuz Zuhr is Makrooh on the Day of Jumuah with Jamaat in the city in a prison or other than a prison. In this way has it been narrated from Hadhrat Ali (radhiyallahu anhu), and in this manner has the practice been constant (down the ages).....”*
(Al-Badaaius Sanaa-i and Al-Mabsootus Sarakhsi)

- (10) *“Performance of Zuhr with Jamaat in the city on Fridays is Makrooh for those who are incapacitated such as the sick, slaves, travellers and prisoners. This has been narrated from Hadhrat Ali (radhiyallahu anhu). This is so whether it is before Jumuah Salaat (of the city) or after it.”*
(Haashiyah Tahtaawi)

The Ruling of the Hanafi Math-hab on this question should thus be clearer than daylight for those who have any doubts in this regard.

THE CONDITION OF ITHNUL AAM

The invalidity of Jumuah Salaat in prison according to the Hanafi Math-hab is based on the absence of the condition of ITHNUL AAM. The other three Math-habs have their own basis and arguments for the invalidity of

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Jumuah in prison.

Ithnul Aam means permission for the public to attend the Jumuah. Jumuah Salaat according to the Hanafi Math-hab is not valid in a place where this condition is lacking. If any Muslim is debarred from the venue of Jumuah Salaat or the doors locked on the public, Jumuah will not be valid in such a place.

This is not the occasion to provide the evidence of the Hanafi Math-hab for this condition. Here it will suffice to state that Ithnul Aam is a Waajib condition, imperative for the validity of Jumuah Salaat. The Kitaab, Mathaahibul Ar'ba-ah, sums it up as follows:

“The seventh condition for the validity of Jumuah is Ithnul Aam. Therefore, Jumuah will not be valid in a place from which some Musallis are debarred. If the Imaam of Jumuah (or the king/ Sultan, etc.) performs Jumuah in his house with his officials and servants, then it will be valid although Makrooh. But the condition (for its validity) is that he opens up the doors of the house and permits the people (i.e. the public) to enter. Similar is the case of the fort. Locking the fort for fear of the enemy (attacking suddenly) will not affect the validity if the people (the public) have been given permission to enter.”

It should, however, be understood that although Jumuah Salaat in the fort of the Sultan is valid if permission is granted to the general public to enter, performing Jumuah there is sinful. Al-Mabsoot of Imaam Sarakhsi states as follows:

“If the Ameer opens the doors of the palace, orders the Muath-thin to call the Athaan and the people assemble in the palace, then this will suffice (i.e. for the validity of Jumuah). The meaning of opening the doors of the palace is Ithnul Aam (granting permission to the public to enter)... But in doing so, he (the Ameer) is sinful because the place prepared for the performance of Jumuah is the Musjid. He has thus abandoned this place... Therefore, his act of doing this is in conflict with the Salf, hence he is sinful.

And, if he does not open up the door of his palace and does not permit the public entry, and he performs the Salaat with his officials and servants, then this will not suffice for them because one of the conditions of Jumuah

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is Ithnul Aam and this is lacking here.”

The foregoing discussion makes it clear that:

- (1) Even if the condition of Ithnul Aam is fulfilled, it is not permissible for the Sultan to have Jumuah Salaat performed in his palace or in the fort.
- (2) If the condition of Ithnul Aam (permission for the public at large to enter) is lacking, the Jumuah Salaat performed at this place will not be valid.

Now when this is the position of Jumuah Salaat in Daarul Islam where the Imaam is the Sultan, then what does the intelligence say regarding a mock Jumuah conducted in a kaafir prison where outsiders are NOT allowed to participate in Jumuah -- where the condition of Ithnul Aam is not met -- where inmates are assaulted and treated like dogs or worse than dogs? The Qur’aan Majeed says:

“And, only the people of intelligence take lesson.”

Some Ulama have attempted to legalize Jumuah in prison by citing the example of the Sultan performing Jumuah in his palace or in a fort with his soldiers, etc. Their thinking is indeed something to lament about.

- 1) Firstly, even when Ithnul Aam exists and the public is not at all debarred from entry into the palace at the time of Jumuah Salaat, then too it is Makrooh and not permissible to have Jumuah performed there notwithstanding its validity.
- 2) Secondly, if the condition of Ithnul Aam is lacking, Jumuah Salaat will simply not be valid in the palace or locked fort. At least the Sultan/Khalifah’s fort or palace has greater dignity and honour than the filthy, brutal and immoral prisons of the kuffaar.
- 3) To compare the kuffaar prisons with the Sultan’s palace/fort is the height of absurdity. This analogy is utterly ridiculous.

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- 4) All the Fuqahaa of the Salf-e-Saaliheen era -- all the Ulama-e-Mutaqaddimeen and Ulama-e-Muta`akhhireen were fully aware of the argument of the Sultan's fort/palace. In spite of their awareness, they unanimously ruled that there is no Jumua for prisoners in the prison.
- (5) This ruling of the invalidity of Jumua in prison is as old as Islam. It is not a Ruling which can be abrogated by the baatil analogy and baseless opinions of some Ulama of this liberal age.
- (6) All those, including Ulama, who claim that Jumua is valid in prison have absolutely no proof and no basis for their claim other than their personal opinion which is in conflict with the clear-cut and unambiguous Ruling of the Fuqahaa on this question.

THE NECESSITY OF THE ARABIC KHUTBAH

Another question of importance in relation to Jumua Salaat is the recitation of the Jumua Khutbah. Modernists, liberals and those who possess extremely loose ties with the Deen have set up a din for the Khutbah to be in the language of the people. The vital importance of the Arabic language for the Jumua Khutbah is rejected and the Jumua Khutbah is given the same status as an ordinary lecture or discourse by those who clamour for this change and shaitaani reform.

The ensuing pages will, Insha'Allah thoroughly demolish their ludicrous contention

The Jumua Khutbah is a prescribed ibaadat which is the equivalent of two raka'ts Salaat, hence it has to be compulsorily recited in the Arabic language. The technical argument of its validity or invalidity if this obligatory rule is not adhered to does not detract from the imperative Shar'i need to recite the Khutbah in only Arabic. The introduction of any other language in the Jumua Khutbah is bid'ah and haraam. It is haraam for Muslims to depart from the fourteen century Sunnah of the Ummah -- a

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Sunnah acquired from Rasulullah (sallallahu alayhi wasallam) and his Sahaabah (radhiyallahu anhum).

THE ESSENTIAL NEED OF RECITING THE KHUTBAH IN ARABIC

According to the Maaliki and Hambali Math-hab, the Jumuah Khutbah will be valid only in the Arabic language.

According to the Shaafi Math-hab, the condition for the validity of the Khutbah is that the Arkaan (fundamentals) of the Khutbah must be in Arabic. If the other parts of the Khutbah are not in Arabic, the Khutbah will be valid inspite of the sin of discarding the Sunnah of reciting the whole Khutbah in Arabic.

According to the Hanafi Math-hab, it is essential for the validity of the Khutbah that at least part of the Khutbah -- such a part which can be classified as Thikr -- be in Arabic. If the remainder is recited in any other language, the Khutbah will be valid, although this discarding of the Sunnah is bid'ah and a major sin.

Thus, recitation of the Khutbah in a language other than Arabic is unanimously not permissible according to all four Math-habs even though two Math-habs say that the Khutbah in this case is valid, despite the sin involved.

THE JUMUAH KHUTBAH AND ARABIC

There is absolutely no doubt in the fact that the Khutbahs recited by Rasulullah (sallallahu alayhi wasallam) and his Sahaabah were all in the Arabic language. This practice of reciting the Khutbah in Arabic was not confined to Arab audiences. Even after the non-Arab lands were conquered and Islam established its domination, the Khutbah continued to be recited in the Arabic language.

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After the demise of Rasulullah (sallallahu alayhi wasallam), thousands of Sahaabah fanned out into the various parts of the world and took up residence in non-Arab lands. These Sahaabah who propagated the Deen to the newly converted Muslims recited the Jum'ah Khutbah in only Arabic. Islamic history bears ample evidence to this irrefutable fact.

In the early days there was a greater need for Tableegh and Ta'leem since Islam was spreading among non-Muslims who were entering the fold of Imaan by the thousand. All these new converts had to be given the knowledge of Islam. While the Sahaabah fully involved themselves with the propagation of Islam among the non-Arab Muslims, they never utilized the Friday Khutbah as a medium for imparting Ta'leem. The Khutbah was retained in the Arabic language in spite of the audience being non-Arabs not understanding the Arabic language.

Among the Sahaabah there were many non-Arabs who propagated the Deen. Hadhrat Salmaan Faarsi (radhiyallahu anhu) was a Persian. But, never was the Khutbah delivered in Persian. Hadhrat Zaid Bin Thaabit (radhiyallahu anhu) was well versed in several languages, but he never recited the Khutbah in any non-Arabic language. Hadhrat Bilaal (radhiyallahu anhu) was an African. Hadhrat Suhaib (radhiyallahu anhu) was a Rumi. In his Sharhul Muatta, Hadhrat Shah Waliullah (rahmatullah alayh) states:

"When we view the Khutbahs of the Nabi (sallallahu alayhi wasallam) and his Khulafa (radhiyallahu anhum), we discern a few things. Among these are the Hamd, the two Shahaadats, the Durood on the Nabi (sallallahu alayhi wasallam), commanding taqwa, tilaawat of the Qur'aan, dua for Muslims and the Khutbah being in Arabic. Because this has always been the permanent practice of all Muslims of the east and the west in spite of the fact that in many lands the audiences were non-Arabs."

Thus, in spite of the audiences being non-Arabs, the permanent practice of the Ummah from the age of the Sahaabah was to recite the Khutbah in the Arabic language. Although the need in those days was greater for Tableegh/Ta'leem since it was the initial ages of Islam, the Khutbah was nevertheless retained in the Arabic language just as the Salaat and other acts of Ibaadat are always executed in Arabic. In view of the fact that the

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Khutbah is a Thikr in lieu of two raka'ts Salaat, it is necessary to recite it in Arabic.

In view of the indisputable historical evidence that the Khutbah was recited in Arabic throughout the long passage of Islam's history from the very age of Rasulullah (sallallahu alayhi wasallam) and because the Khutbah is not an ordinary lecture, we find that all Mathaahib (Hanafi, Maaliki, Shaafi and Hambali) are unanimous in their verdicts on the need for the Khutbah to be in Arabic. Some of our brothers may seek to deny this fact by presenting certain technical interpretations and rulings of the Fuqahaa in this regard. However, their lack of understanding the technical meanings of the legal terms of the Fuqahaa (Jurists) cause them to draw erroneous conclusions.

The differences among the Fuqahaa regarding the Arabic recitation of the Khutbah pertain to the question of *'ishtiraat'* or condition. According to some Fuqahaa, Arabic is not a condition (shart) for the validity of the Khutbah. As long as the five fundamental parts of the Khutbah are discharged in Arabic, the Khutbah will be valid. However, those who claim that Arabic is not a condition for the validity of the Khutbah, nevertheless aver that it is Makrooh Tahrimi (i.e. a forbidden act) to recite the Khutbah in a language other than Arabic.

There is a difference between validity and permissibility. An act may be valid without it being permissible. If a person comes into the Musjid clad in only a cloth which conceals his satr, the rest of his body remaining open and he performs Salaat in this way, his Salaat will be valid, but such an act is not permissible. If three talaqs are issued simultaneously, the talaq while valid is not permissible, i.e. although it is valid, it is sinful to issue talaq in this way. If a person performs Salaat with the qiraa't being recited in incorrect order, i.e. he deliberately reverses the order of the Surahs, then while his Salaat is valid, his act is not permissible. Similarly, according to those Fuqahaa who maintain that Arabic is not a shart (condition) for the validity of the Khutbah, reciting the Khutbah in a non-Arabic language will be valid, but not permissible.

It is entirely erroneous to conclude from the view that the Arabic language is not a shart for the Khutbah, that it is permissible to recite the Khutbah in a language other than Arabic. Only those who have failed to understand

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the language of the Fuqahaa will resort to such baseless interpretation. We shall now present the rulings of the four Math-habs on this question.

HANAFI MATH-HAB

“There is no doubt in the fact that the Khutbah in non-Arabic is in conflict with the Sunnat-e-Mutawaarithah of Nabi (sallallahu alayhi wasallam). It (reciting it in a language other than Arabic) is, therefore, Makrooh Tahrimi (which is a forbidden and a sinful act).”
(Umdatur Riaayah)

SHAAFI MATH-HAB

The one view:

“It is a condition (for the validity of the Khutbah) that the Arkaan of both Khutbah be in the Arabic language. Thus, non-Arabic will not be sufficient when it is possible to learn Arabic.

Regarding the other parts of the Khutbah which are not the Arkaan, Arabic is not a condition (for the validity of the Khutbah), but it is Sunnat.”

(Al-Mathaahibul Arba ‘ah, page 392, Vol.1)

The other view:

“It is a condition (shart -- for the validity of the Khutbah) that the whole Khutbah be in Arabic as has been the practice of the people (i.e. the Ummah of Islam)..... If there is no one among the Musallis who is versed with the knowledge of Arabic, then one of them shall recite the Khutbah in his language. And, it is compulsory that one among them learns the Khutbah in Arabic. If then so much time lapses in which it is possible to learn and none of them learns (to recite the Khutbah in Arabic), then all of them have sinned. There is then no Jumuah for them. On the contrary, they have to perform Zuhr.”

(Al-Qalyubi, page 278, Vol.1)

“Imaam Raafi (among the senior Shaaafi Fuqahaa) said: ‘Is it a condition that the whole Khutbah be in Arabic? On this question there are two views. The Saheeh (correct view) is that it is a condition (shart). Therefore, if among them there is no one versed in Arabic, the Khutbah will be recited

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in non-Arabic and it is Waajib on them to learn Arabic otherwise they have sinned. And there will be no Jum'ah for them."

(Sharhul Ihyaa of Sayyid Murtadha Zubaidi, page 226, Vol.3)

"Is it a condition for the whole Khutbah to be in Arabic? The Saheeh (correct view) is that it is conditional (i.e. the whole Khutbah to be in Arabic is a shart for the validity of the Khutbah). Therefore, if there is no person among them versed in Arabic, then the Khutbah shall be recited in non-Arabic. And, it is obligatory on all of them to learn the Arabic Khutbah.....If such time passes in which it was possible to learn and they did not learn, then all of them have sinned. There is then no Jum'ah for them."

(Raudhatut Taalibeen of Imaam Nawawi, page 26, Vol.2)

THE MAALIKI MATH-HAB

"It is a condition (for the validity of the Khutbah) that the Khutbah be in the Arabic language even if the audience (the people listening to the Khutbah) is ajam (non-Arab) who do not understand Arabic. If among them there is no one versed in Arabic to discharge the Khutbah in Arabic, then Jum'ah is waived for them."

(Al-Mathaahibul Arba`ah, page 392, Vol.1)

THE HAMBALI VIEW

"The Hanaabilah say: The Khutbah in non-Arabic is not Saheeh (not valid) if the khateeb is able to recite in Arabic. If he is unable to recite in Arabic then he should execute it in non-Arabic in a language he is versed. (This is) whether the people are Arabs or non-Arabs. But, the aayat (Qur'aanic verse) which is the Rukn among the Arkaan of both Khutbah -- it is not permissible to recite it in non-Arabic. (Where the khateeb cannot recite Arabic) he should substitute it with any form of Thikr in Arabic as he pleases. If he is unable (to recite even some Arabic Thikr) then he should remain silent for the duration of the recitation of the aayat."

(Al-Mathaahibul Arba`ah, page 391, Vol.1)

From the foregoing references the following facts emerge:

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- 1) According to the Hanafi Math-hab it is not permissible to recite the Khutbah in any language other than Arabic. It is forbidden and a sinful act to recite the Khutbah in any language besides Arabic.
- 2) According to the Shaafi Math-hab the correct and official view is that the recitation of the whole Khutbah in Arabic is a condition for the validity of the Khutbah.
- 3) According to the Maaliki Math-hab the Khutbah in Arabic is a condition for the validity of the Khutbah.
- 4) According to the Hambali Math-hab, the Khutbah in a language other than Arabic is not valid.

The unanimous verdict of the Shariah is, therefore, that the Jumuah Khutbah is not permissible in any language other than Arabic. We have absolutely no need to abandon the permanent and the beautiful practice of Rasulullah (sallallahu alayhi wasallam) and the Sahaabah and all their followers down the various ages of Islam. Those who are out to tamper with the Khutbah are in fact influenced by the norms of modernity and are endeavouring to modernize Islam. May Allah Ta'ala grant us all hidaayat and the taufeeq to understand the ahkaam of Islam.

JUMUAH ON A UNIVERSITY CAMPUS

(Response to a Query)

16th Rabiul Awwal 1414
3rd September 1993

Respected Brother,

We are in receipt of your letter dated 25th August 1993 and note contents. The answers to your queries are as follows:

(1) Jumuah Salaat at a university campus:

According to the Hanafi Math-hab, one of the conditions for the validity of Jumuah is Ithnul Aam which means General Consent. If the Jumuah is held at a place which is not open to all, then the Jumuah Salaat will not be valid there. Therefore, it is necessary to conduct the Jumuah in such a place which everyone can attend unhindered. If the university campus is not open to all Muslims during the duration of the Jumuah Salaat and Khutbah, then Jumuah will not be valid there in terms of the Hanafi Math-hab. Hanafis cannot then perform Jumuah at such a campus.

According to the Maaliki Math-hab, the necessary condition for the validity of Jumuah is that the Jumuah be conducted in a properly erected Jaami' Musjid. Thus, according to the Maaliki Math-hab, Jumuah is not valid on a university campus. In this case followers of the Maaliki Math-hab will have to perform Zuhr Salaat if there is no Jaami' Musjid in the city.

NUMBER OF MUSALLIS

According to the Hanafi Math-hab, the minimum number of musallis necessary for the validity of Jumuah is three, the fourth being the Imaam. According to the Shaafi Math-hab, the minimum number is 40 resident male adults who are all Muqeen. They should not be musafir. Muqeen in this context here means a permanent resident of the place as well as a

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traveller who has made the intention of staying at the place for at least four full days. Thus, if in the congregation there are 39 residents and one traveller or one minor, then the Jumuah will not be valid for Shaafis.

According to the Maaliki Math-hab, the minimum number is 12 adult males who are residents of the place. According to the Maaliki Math-hab a Muqem is either a permanent resident or a traveller who intends to stay for at least four days in the place where Jumuah is being performed. The number of musallis has to be twelve besides the Imaam.

In terms of the Hambali Math-hab the validity of Jumuah is dependant on 40 adult males who are permanent residents of the place. This number includes the Imaam.

A MIXED CONGREGATION

If the congregation consists of musallis following different Math-habs, the following ruling will be applicable:

- (a) If the place where Jumuah is being performed is a university campus which does not allow the general Muslim public to enter during the duration of Jumuah, then Jumuah will not be valid regardless who the Imaam may be, even if he is a follower of any other Math-hab.
- (b) If the number of musallis is 40 or more (residents), and the Imaam is a Shaafi or a Hambali, then the Jumuah on the campus will be valid for Shaafis, Hambalis as well as Maalikis, but not for Hanafis as mentioned earlier.

If in this case (40 performing on the campus), the Imaam is a Maaliki or a Hanafi, then the Jumuah of the Maalikis, Hambalis and Hanafis will not be valid. But, the Jumuah of the Shaafis will be valid.

If in this same case the Imaam is a Hanafi, the Jumuah of the Hanafis,

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Maalikis and Hambalis will not be valid while that of the Shaafis will be valid.

If in this same case (40 or more performing on the campus) the Imaam is a Hambali, then the Jumuah of the Hambalis, Shaafis and Maalikis will be valid while that of the Hanafis will not be valid.

FROM THE ABOVE IT WILL BE SEEN THAT IN THE ABOVE CASE THE JUMUAH OF HANAFIS WILL NOT BE VALID UNDER ANY CIRCUMSTANCES.

- (c) If the number of musallis performing on the campus is less than 40, then the Jumuah will not be valid in terms of all four Math-habs whether the Imaam happens to be Hanafi, Shaafi, Maaliki or Hambali.

Even if the Imaam is a Maaliki and the number of musallis exceed 12 adult resident males, Jumuah will not be valid for Maalikis on a university campus because one of the conditions for the validity of Jumuah according to the Maaliki Math-hab is that the Jumuah has to be performed in a Jaami' Musjid.

- (2) It is not permissible for the Khateeb to be without a beard nor is it permissible for him to cut his beard less than a fist length which is the prescribed minimum length. Although the Jumuah will be validly discharged even if the Salaat/Khutbah are conducted by such a faasiq Imaam, nevertheless, it is sinful to appoint such a faasiq to be the Imaam. The reward of the Jumuah is diminished or destroyed.

Likewise it is not permissible for the Khateeb to be without Islamic dress. It is forbidden to wear western/kuffaar garb. Nevertheless, despite the prohibition and the sin involved, the Jumuah will be valid even if such a faasiq conducts it.

It is permissible to be without a staff. The Khateeb need not take a staff

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when delivering the Khutbah.

In fact, in these days it is not permissible to hold a staff on the Mimbar because this practice has become a bid'ah (innovation). People have been misled to believe that it is compulsory for the Khateeb to hold a staff when delivering the Friday Khutbah.

- (3) Recitation of both Khutbahs in Arabic is essential. This has been the practice of the Ummah from the earliest days of Islam. To depart from this practice is sinful. Nevertheless, the Jum'ah will be valid even if the Khateeb commits the sin of reciting part of the Khutbah in Arabic and part in another language. But, it should be well remembered that it is not permissible to recite the Khutbah in any language other than Arabic. There is a difference between validity and permissibility. While it is not permissible to recite in any other language, nevertheless, the Khutbah will be valid if part of it is in English.
- (4) It is not a requisite for the Khutbah to consist entirely of Qur'aanic and Hadith narrations. In addition to such narrations, other admonition may also be incorporated.
- (5) The second Khutbah is more praise and prayer while the focus of the first Khutbah, beside the praise and prayer, is also on Naseehat (admonition/Tableegh).
- (6) THE KHATEEB (The one who delivers the Khutbah)

The Imaam of the Musjid has the prior right to conduct the Jum'ah Salaat and Khutbah in his Musjid. If there is no fixed or permanent Imaam, any qualified Muslim may be appointed to execute this duty. It may be a different person each week. It should be remembered that according to the Maaliki Math-hab, the same person who recites the Khutbah should lead the Jum'ah Salaat. If different persons execute this, then the Jum'ah will not be valid in terms of the Maaliki Math-hab.

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It is permissible to ask a traveller from a different country to perform this duty. However, the conditions for the validity of Jumuah in terms of some Math-habs should not be overlooked in this case, e.g. if the traveller who has not made an intention of staying four days or more, is appointed to conduct the Jumuah and the number of musallis is 38, then the Jumuah will not be valid for Hambalis, Shaafis and Maalikis although it will be valid for Hanafis (i.e. if performed in a Musjid or a place where the condition of General Consent is found).

(7) Yes, both Khutbahs should be delivered by the same Khateeb.

BASELESS ASSUMPTIONS TO DISTORT THE TRUTH

In a bid to refute the Shariah's prohibition of Jumuah in prison, some people have presented their own opinions and assumptions in their arguments against our contention. Either they are shockingly ignorant of what they read in our contention or they deliberately turn a blind eye to the irrefutable facts we have presented to substantiate the case of the prohibition of Jumuah Salaat in prison.

In their rebuttals of our claim, they miserably fail to answer the facts and arguments we have presented. Rather, they present their own assumptions which they endeavour to peddle as the basis of our contention when in reality the basis of our case is not what they have assumed and claimed.

In this regard, we reproduce several letters which are self-explanatory and which dispels the darkness which the miscreants have attempted to develop around this issue.

The invalidity of Jumma Salaat in prison

LETTER NO.1

17th Safar 1418

23rd June 1997

Respected Brother,

We are in receipt of your letter dated 28th Muharram 1418 (5th June 1997) and note contents

Jumuah Salaat requires certain conditions for its validity. Since a prison environment does not satisfy all these conditions, Jumuah Salaat is not valid in a prison. The different Math-habs have different conditions. In terms of all four Math-habs some condition or the other is lacking in prison for the validity of Jumuah Salaat. Thus, Jumuah Salaat is not valid in prison in terms of all four Math-habs.

Where Jumuah is not valid, e.g. prison and a little village (in terms of the Hanafi Math-hab), Zuhra Salaat has to be performed individually, i.e. without Jamaat and without Athaan and without Iqaamah. This is the official, authoritative Fatwa of the Hanafi Math-hab.

In view of this categoric ruling of the Hanafi Math-hab it is not permissible for followers of the Hanafi Math-hab to even be present at a gathering on Friday in a place where Jumuah is performed, but which is not valid. It is neither permissible for them to sit and listen to the invalid Khutbah being recited at the invalid Jumuah Salaat.

It is also not permissible for followers of the Hanafi Math-hab to join in the invalid Jumuah Salaat on the basis of the argument that they are making intention of Nafl. Firstly, the Jumuah Salaat which the Imaam is conducting is invalid, hence the Nafl Salaat performed behind such an Imaam is likewise invalid. Secondly, it is not permissible for Hanafis to perform Nafl Salaat in Jamaat. Thirdly, they accord respectability and acceptability to a baatil practice by their presence whereas the Shariah requires them to abstain from baatil and deviation. Hence, those Hanafi brothers who join the invalid Jumuah and present a variety of arguments in justification of

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their error are rendering a disservice to the Haqq. Their conduct is not proper. People of the Haqq should adhere to the teachings of the Math-hab they follow. Their preoccupation should be with the pleasure of Allah Ta'ala, not the desires of those who peddle baatil.

The following rulings appear in Bahrur Raa-iq which is a highly placed and authoritative Kitaab of Fiqh of the Hanafi Math-hab:

“It is Makrooh (i.e. Makrooh Tahrimi) for the ma’zoor (those who are excused due to valid reasons) and for prisoners to perform Zuhr with Jamaat in the city (on a Friday).”

“The rendition of Zuhr with Jamaat on Friday is Makrooh totally.”

“It appears in Az-Zaheeriyah: A group missed Jumuah in the city. They should then perform Zuhr without Athaan, without Iqaamah and without Jamaat.”

“Walwaaji narrated: “On Fridays, Salaat (Zuhr) shall not be performed in prison in a city in Jamaat nor shall Athaan be given nor Iqaamah.”

Similar rulings of the Jamhur Hanafi Fuqahaa are to be found in all the authoritative Kutub of the Hanafi Math-hab.

Was-salaam

LETTER NO. 2

4th Zil Qadh 1420

9th February 2000

Respected Brother,

We are in receipt of your letter dated 10th December 1999 together with a pamphlet captioned: INMATES PERFORMING SALAAT AL-JUMUAH. We

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have noted contents carefully.

The question as well as the answer on this issue are based on assumptions which are untrue. The invalidity and impermissibility of Jum'ah Salaat in a prison are not based on any of the assumed arguments which the pamphlet attributes to the Ulama who have issued this Fatwa of the Shariah. The following are the assumed baseless and false arguments mentioned in the paper:

- (1) *“They (i.e. the Ulama) use as their proof the Hadith about the slave and the traveller.”*
- (2) *“The Fatwa referred to in the question seems to be based on two points: (1) the Friday prayer is not an obligation upon inmates because inmates are analogous to travellers and slaves; and (2), based on (1), if inmates hold the Friday Prayer, that Friday Prayer is not valid (hence their saying that it is haraam or forbidden for them to pray the Friday Prayer).”*
- (3) *“The view of the majority of the jurists, is that such an analogy is not valid.”*
- (4) *“....the Hadith on this question simply state that it is not obligatory upon such people to attend the Friday Prayer. Therefore, even if the analogy is accepted, the Hadith in no way state that the Friday Prayer is not valid when performed by such people.”*
- (5) *“The people who gave the Fatwa may be envisioning a situation wherein only inmates are performing the Friday Prayer. Then, they might say, since the Friday Prayer is not obligatory upon them even though they may attend the Friday Prayer (based on the above analogy), if only inmates are present, the Friday Prayer is not valid..... However, according to the Hanafi School of Fiqh, this is*

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not correct.”

Indeed these arguments which are the mere assumptions of the writers of the pamphlet, and which they have attributed to the Ulama are quite bizarre. Nowhere can anyone find these assumed arguments in the stock of arguments which the Ulama of the Ahlus Sunnah present for the Shar’i view of the invalidity of Jumuah in a prison even if the prison happens to be in Daarul Islam.

We did not make any analogy between prisoners and slaves. This is not our argument for proclaiming the invalidity of Jumuah Salaat in a prison. It has never been contended that Jumuah Salaat in prison is not valid because Jumuah Salaat is not obligatory on prisoners. This assumed argument is baselessly and falsely being attributed to the Ulama.

We also did not make an analogy between prisoners and travellers. This allegation too is a baselessly assumed supposition which is falsely attributed to the Ulama. It is not our argument that Jumuah Salaat in prison is not valid because Jumuah is not obligatory on prisoners on the basis of the assumed analogy between prisoners and travellers.

We do not present in substantiation of our claim the Hadith which the writers of the pamphlet cite as our proof. We never cited any such Hadith as the basis for the ruling that Jumuah in prison is not valid.

It seems abundantly clear that the opposition is plainly confused. They lack understanding of Shar’i issues, hence they present emotional statements and arguments in the style of little children. It was never claimed that Jumuah Salaat performed by prisoners is not valid. Rather, the claim is that Jumuah Salaat performed in a prison IS NOT VALID. This is so even if an outsider, like the Imaams visiting the prisons or anyone else for that matter, enters a prison and performs Jumuah. The Jumuah Salaat of both the prisoners and the outsiders who perform inside the prison is not valid.

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Thus, in our claim there is no reference nor any basis of any analogy with any specific class of people as the questioner as well as the one who answers the question have assumed. Their suppositions are baseless and childish displaying gross ignorance of Shar'i issues and Shar'i matter.

The modernists then seek to justify Jumuah Salaat or its validity in a prison by citing the Qur'aanic verse in which the order for Jumuah is given. Again their trend of argument is extremely ridiculous. They argue that the command for Jumuah is directed to all Muslims, hence it is obligatory on all persons even if they are in prison. This conclusion is a figment of the nafs. Even those who argue in favour of Jumuah Salaat in prison are constrained to concede that Jumuah Salaat is not obligatory on travellers, slaves, women, the sick, etc. notwithstanding the fact that if they attend Jumuah in a place where the Jumuah Salaat is valid, then their Salaat too will be valid. The Qur'aan commands not only Jumuah Salaat. It commands the five daily Salaat as well. But the obligations are commanded in concise forms without their numerous details (Shuroot and masaa-il).

Every act of ibaadat has its requisites and conditions (Shuroot). Even the daily Fardh Salaat is not valid if the conditions are not observed. If a man performs Salaat without wudhu or not facing the Qiblah or donning impure garments or standing in an impure place, the Salaat will not be valid. It is plain stupidity for anyone to argue that inspite of non-observance of the Shuroot the Salaat is valid because Allah Ta'ala commands that every Muslim performs Salaat.

Similarly, Jumuah Salaat has conditions (Shuroot) for its WujooB (compulsion) and Validity (Sihhat). If the conditions are lacking the Salaat will not be valid. This is the unanimous view of ALL authorities of Islam right from the time of the Sahaabah. There is no Faqeeh (Jurist) of the Shariah who has ever claimed that Jumuah Salaat for its validity has no

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Shuroot. According to ALL four Math-habs of the Ahlus Sunnah Wal Jama'ah, there are a number of conditions for the validity of Jumuah Salaat. The most lenient on this issue is the Hanafi Math-hab. The conditions for the validity of Jumuah Salaat are more stringent according to the Maaliki, Shaafi and Hambali Math-habs. Thus, the statements which modernists attribute to Imaam Ahmad for justifying Jumuah in prison are either cited out of context or deliberately or stupidly mistranslated or perhaps these votaries of Jumuah in prison have not understood what they have read or heard. Any Kitaab of Hambali Fiqh will state Imaam Ahmad's view. Every Kitaab of every Math-hab explains the Shuroot which are necessary for the validity of Jumuah. None of the Math-habs of Haqq -- of the Sunnah -- permit Jumuah Salaat in prison.

Jumuah Salaat cannot be argued on the basis of the validity of Jamaat (Congregational) Salaat in prison. The daily Fardh Salaat is valid in congregation in a prison simply because the conditions for its validity are met, but not so Jumuah Salaat.

Surely the illustrious Salf-e-Saaliheen among whom were the great Aimmah-e-Mujtahideen among the Taabieen and Tab-e-Taabieen had greater understanding of the Qur'aan and Hadith than the world full of modernists and Islamically illiterate and uneducated self-styled and self-appointed scholars who deem themselves to be qualified Scholars after gaining a smattering of oblique 'knowledge' from translated versions of the Books of Hadith, Fiqh, etc.

Enclosed herewith is a detailed discussion on the requirements of Jumuah Salaat in terms of all four Math-habs.

The modernists who wish to force their opinion on followers of the Ahlus Sunnah are creating their own misguided 'math-hab' by submitting the Qur'aan and Sunnah to their whimsical interpretations.

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From the enclosed references in Arabic, it will be observed that the Fuqahaa of all Math-habs do not proclaim Jumuah valid without any conditions. Everyone of them presents the Shuroot for the validity of Jumuah in terms of the Math-hab they are following.

Brother, our advice to you is to remain steadfast on the Haqq. Ignore the people of baatil. Do not become embroiled with them in dispute since it is not their intention to gain the Haqq, their bigoted minds will never accept the Truth no matter how you argue.

When people are obstinate and intransigent, silence is the best option.

Was-salaam

LETTER NO. 3

27th Rabiul Akhir 1408

Respected Brother,

The pamphlet titled, "The place of abrogation in Islam" which you had sent, indicates the ignorance of its author who lacks in Deeni understanding. Reading a couple of translations of Hadith books and a translated version of the Qur`aan Majeed is highly dangerous. The arguments presented by the ignorant author against the Shar`i ruling regarding the inadmissability of Salaatul Jumuah in a prison are baatil.

In justification for Salaatul Jumuah in prisons, the author of the pamphlet cites general nusoos – Qur`aanic Aayaat and Ahaadith -- which are not applicable to the question of Jumuah in prison. The author states in his atrocious pamphlet:

"They have gone so far as to abrogate Salat al Jumma for the Muslims who happen to be in Correctional Facilities."

The fact that he pronounces Jumuah with two m's, speaks much for his

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ignorance. Jumuaah does not contain two Meems (م). Yet he sets himself up as a mujtahid and a mufti issuing verdicts in matters on which the Shariah has decided centuries ago. The conclusions of this ignorant and atrocious writer being in conflict with the verdicts of the Fuqahaa and Aimmah-e-Mujtahideen are sufficient cause for ignoring him and to reject him outrightly.

Those who claim that Salaatul Jumuaah is not valid in prison at no stage denied the injunction of Salaatul Jumuaah itself. Whoever denies Jumuaah Salaat is a kaafir. The Command for Jumuaah Salaat stated in the Qur`aan and Hadith has its exceptions. It is common knowledge that Jumuaah Salaat is not obligatory on females, the sick, on those inhabiting small villages and on travellers. This statement does not represent a denial of the obligation of Jumuaah since the Shariah itself has waived the obligation from certain persons as enumerated above. If a woman does not perform Jumuaah Salaat, she cannot be criticized for her action on the basis of the Qur`aanic verse and Hadith narrations which command the performance of Jumuaah Salaat. Only a man stupid and dense in the mind -- a man who lacks Deeni understanding -- will proclaim that a woman and a musaaafir (traveller) who do not perform Jumuaah are sinning against the Law of Allah Ta`ala.

The great and illustrious Fuqahaa of Islam -- the great authorities of the Shariah who lived in the ages in close proximity to the age of the Sahaabah in the times known as Khairul Quroon, possessed a greater knowledge of the Qur`aan and the Sunnah than all Muslims put together in the world. It is crass ignorance and gross subservience to the nafs--dhalaal and baatil -- for Muslims in this belated age to tender arguments and present conclusions in conflict with the rulings of the Fuqahaa. The illustrious Fuqahaa have ruled that Jumuaah Salaat is not permissible in prison. Their ruling cannot be construed to mean that they denied the obligation of Jumuaah Salaat.

The author of the pamphlet should refer to the Fiqh books of the Aimmah-e-Mujtahideen if he has any competence to do so. If he does possess any knowledge to permit him access to the Books of the Shariah, then he shall

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not fail to discern the indisputable fact that the illustrious authorities of the Shariah have, fourteen hundred years ago, issued the verdict that Jumuah Salaat is not permissible in a prison. This ruling is not a new rule deducted by any modernists in this belated time.

The ruling of Jumuah not being permissible in prison is not an example of abrogation (Naskh). Only a jaahil (ignoramus) will interpret it as an abrogation. For Jumuah to be valid and obligatory, there are conditions (Shuroot). In the absence of such shuroot, the obligation will be non-existent. This applies not only to Salaatul Jumuah, but to all other acts of Ibaadah. A woman in her state of haidh not performing Salaat cannot be accused of denying the obligation of Salaat. A man who performs Zuhr Salaat at home due to illness cannot be castigated and branded a kaafir on the basis of baatil interpretation. He cannot be accused of denying the obligation of Jumuah Salaat because his illness prevented him from attending Jumuah. Similarly, those in prison cannot be criticized for abstaining from Jumuah Salaat for the simple reason that Jumuah Salaat is not permissible for them. On the contrary, those who engage in a non-existent Jumuah Salaat in prison are to be criticized since they are acting in violation of the Shariah. Moreover, the obligation of Zuhr remains a liability on them as long as they have not discharged it. Their performance of 'Jumuah' in prison will not absolve them of the obligation of Zuhr Salaat.

According to all the Math-habs of Haqq (Hanafi, Maaliki, Shaafi and Hambali), Jumuah Salaat is not valid for certain persons and in certain places. Does this mean that these great men of Islam had all failed to understand the Qur'aanic Command and the Sunnah? According to Imaam Abu Hanifah for the validity of Jumuah Salaat, four persons are necessary; according to Imaam Maalik, twelve persons and according to Imaam Shaafi, forty persons while according to Imaam Hambal, also forty persons. Then, the great Imaams said that the persons on whom Jumuah is Fardh have to be residents of the town. Jumuah according to them is not obligatory on nomads or travellers. When Jumuah is not valid even for free persons living outside prison in the little villages or in the farms, then it will be quite simple to understand that Jumuah is not valid for prisoners in a prison. But, according to the understanding of the author of the pamphlet, all the great authorities misunderstood the Qur'aan and the Sunnah while he labours under the false notion of him having comprehended the

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Qur`aan and the Hadith. Indeed he is astray and seeks to mislead others with his own baatil opinion.

The misguided author of the pamphlet says:

“Also, Salat being one of the pillars of Islam, anyone who abandons Salaat is committing Kufar.”

This ignoramus should be told that Jumuah not being valid in prison is not synonymous with abandonment of Salaat. When the Shariah decrees that Jumuah is not valid for prisoners, such decree does not represent abandonment of Salaat.

The prisoners are still obligated to perform Zuhr Salaat. If ten persons perform Jumuah Salaat even outside a prison, the Salaat will not be valid according to the Maaliki Math-hab. Does this mean that Imaam Maalik (rahmatullah alayh) has abandoned Salaat? If thirty nine persons perform Jumuah Salaat even in a city, the Salaat will not be valid according to Imaam Shaafi (rahmatullah alayh). Does this mean that Imaam Shaafi has advocated the abandonment of Salaat? Only men who have deviated far, far from the Path of Deen will venture such a ludicrous conclusion.

The ignorant author of the pamphlet says:

“As no one in his right mind would for example give up making Salatul Isha every night because he was in an Institution. Similarly the obligation of Salatul Jumma is an inseparable part of the Ibadah (Decreed) by Allah Ta’ala and the Prophet (S.A.W.S).”

The analogy between Jumuah Salaat and Isha Salaat is false and absurd in view of the fact that the Shariah has already given its decrees in this respect. While Isha and the other Fardh Salaat are obligatory on all and in every place, Jumuah Salaat is not obligatory on all and in every place. The Shariah has made this abundantly clear. In cases where Jumuah Salaat is not valid, Zuhr Salaat has to be performed. The argument of the misguided author of the pamphlet is thus stupid and silly.

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The author says in his pamphlet:

“As well there are no Daleels (proofs) for the amount of people required to hold Jumma, although it is agreed upon.....”

“Most of the people of Ilm agree that in the light of there being no specific Daleel as to the minimum amount of people required to hold Jumma, out of necessity one can hold Jumma with the minimum required for Salat in Jamaat which is two people.”

These claims are manifestly false. This miserable deviate is seeking to abrogate and cancel the teachings and practices of Islam which have existed from the age of the Sahaabah. This ignoramus is seeking to create a new ‘math-hab’ based on his stupid ideas unbacked by any Shar’i basis. None of the authorities of Islam propagated the views which this deviate is advocating. Who are the “people of Ilm” he is referring to? The true men of Ilm -- the Fuqahaa and the Ulama -- from the earliest period of Islam down the centuries of Islam’s history have always taught that the validity of Jumua Salaat depends on a specific number of people being present. This number varies according to the different rulings of the Aimmah-e-Mujtahideen. It is blatantly false to claim that there is no specific daleel and no minimum number of people necessary for the validity of Jumua. This ignoramus should not expect the Ummah to believe that the great Imaams of the Math-habs of Haqq all erred in their understanding of the Qur’aan and Sunnah while he, in this belated century, has understood the Qur’aan and the Sunnah. Do we have to understand now that the Ummah has been trodding the path of error for the past fourteen hundred years in the matter of Jumua Salaat and only now in this late century has the error of the Ummah been discovered by some non-entity? What does this ignorant religious miscreant understand of “daleel”? If he had an inkling into the workings of the Shariah, he would not have so shamelessly ventured his stupid and baseless views in opposition to the fourteen-hundred year teachings of Islam.

Salaatul Jumua is not a new practice for Muslims. This Ibaadat has been in existence in the Ummah since the time of Rasulullah (sallallahu alayhi wasallam). The Sahaabah performed Jumua and taught it to their students who in turn taught it to their students. In this way, by successive

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transmission, reliably and authentically, the Ibaadat of Jumuah Salaat has come down to us. It is an act of kufr to seek to change its rules now in this belated century. If the early Muslims who were in touch with the Sahaabah did not understand the Qur`aan and the Sunnah -- if they did not know the rules and requirements of Jumuah, then it will be too much to claim that the Toms, Dicks and Harrys of our time have understood the Qur`aan and the Sunnah. How is it ever conceivable that the early Muslims failed in their teaching of Salaatul Jumuah? We did not suck from our thumbs the rules pertaining to Jumuah Salaat. Such requirements are not new teachings based on opinion. The Shuroot (conditions) for the validity of Jumuah Salaat have not been deduced in this generation. These Shuroot have been explained by the earliest authorities of Islam and are there for all to see in the authentic Books of the Shariah. But, the truth of the matter is that the author of the pamphlet is not sufficiently competent to understand Shar`i Daleel, hence he blurts out his nonsensical and baseless opinions based on his desires.

The author of the pamphlet further says:

"Imam Shafi says in his Risala: 'NO ONE HAS THE RIGHT to abrogate the Qur'an.'"

Abrogation of any Qur`aanic aayat or law is and has been effected by Allah Ta`ala, Himself. No one has ever claimed that Muslims can abrogate the Qur`aan. The author has cited Imaam Shaafi, but he should know that according to Imaam Shaafi, forty persons are necessary for the validity of Jumuah. A jamaat of thirty nine is not valid for Jumuah Salaat. Now does it mean that Imaam Shaafi has abandoned the obligation of Jumuah and has abrogated the Qur`aan? This misguided ignoramus has no right to cite the statements of our illustrious Aimmah-e-Mujtahideen to substantiate any of his views since he rejects the Taqleed of these Aimmah. He tries to eke out support for his fanciful notions by referring to Imaam Shaafi and other Fuqahaa while refuting their rulings regarding their stipulation of specific minimum numbers for the validity of Jumuah Salaat.

His arguments on Taqleed, the question of women attending the Musjid and the Jumuah issue are absolutely baseless and in conflict with the rulings of the authorities of Islam of the past fourteen hundred years.

A copy of the Jamiatul Ulama's booklet on the question of women in

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Mosques is enclosed herewith. This booklet was written some years ago by the Jamiatul Ulama of Eastern Cape, South Africa.

Was salaam

CONCLUSION

The summary of the whole discussion of these pages is:

- 1) Jumuah Salaat in prison is not valid according to all Math-habs. This is a unanimous ruling. While each Math-hab has its own arguments and conditions for the invalidity, they all are agreed that Jumuah is not valid in prison.
- (2) The Hanafi position is based on the absence of the condition of Ithnul Aam.
- (3) It was never asserted that Jumuah in prison is not valid because the people there happen to be prisoners. This is a distortion and a blatant lie. If prisoners are allowed to join a valid Jumuah Salaat, their Jumuah will be valid. In fact, a prisoner can be even the Imaam to lead the Jumuah if it is conducted in a place where it is valid.
- (4) On Fridays in prison, everyone should perform Zuhr Salaat alone, not in Jamaat. Furthermore, neither Athaan nor Iqaamah should be recited.

Hidaayat is only from Allah Ta`ala.
